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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/220,736 12/23/98 BOHN

D 10971957-1

022879 MMC2/0619
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INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS CO 80527-2400

EXAMINER

ART UNIT	PAPER NUMBER
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2878

DATE MAILED:

06/19/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Advisory Action

Application No.

09/220,736

Examiner

Thanh X Luu

Applicant(s)

BOHN, DAVID D.

Art Unit

2878

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 04 June 2001 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check only a) or b)]


- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ In view of the early submission of the proposed reply (within two months as set forth in MPEP § 706.07 (f)), the period for reply expires on the mailing date of this Advisory Action, OR continues to run from the mailing date of the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will be entered upon the timely submission of a Notice of Appeal and Appeal Brief with requisite fees.
3. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search. (see NOTE below);
- (b) ☐ they raise the issue of new matter. (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

4. ☐ Applicant's reply has overcome the following rejection(s): _____.
5. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
6. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
7. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
8. ☒ For purposes of Appeal, the status of the claim(s) is as follows (see attached written explanation, if any):
- Claim(s) allowed: _____.
- Claim(s) objected to: _____.
- Claim(s) rejected: 1-17.
- Claim(s) withdrawn from consideration: _____.
9. ☐ The proposed drawing correction filed on _____ a) ☐ has b) ☐ has not been approved by the Examiner.
10. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
11. ☐ Other: _____.


Que T. Le
Primary Examiner

Continuation of 6. does NOT place the application in condition for allowance because:

Applicant's remarks are not persuasive.

Both Matsunami and Thomson disclose the invention as claimed, specifically, an aperture stop positioned substantially co-planar with the image side focal plane of the lens as set forth in the final rejection. In fact, Thomson clearly discloses (see Figure 5) the aperture stop (at 16) at the focal point of the lens (14), thus, the stop is substantially co-planar with the image side focal plane of the lens. Furthermore, since "substantially" is a relative term, the aperture stop of Matsunami and Thomson are "substantially co-planar" with respect to, for example, the light source.

Regarding the term "telecentric aperture stop," nothing in the claim distinguishes the "telecentric" function of the aperture stop from a regular "aperture stop." Thus, since the aperture stop of either Matsunami and Thomson functions exactly like the aperture stop as claimed, the name at which the aperture stop is called arbitrary and does not hold much patentable weight. Even if the telecentric function is read into the claim from the specification, both Matsunami and Thomson anticipates the invention since the aperture stops are "at about" or "substantially" at the image side focal plane of the lens as explained above.

Thus, Applicant's remarks has failed to put the application in condition for allowance and the final rejection forth in Office Action mailed April 12, 2001 is proper.